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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Michael Lacey, et al.,

Defendants.

CR-18-422-PHX-SPL (BSB)

NOTICE OF ERRATA RE DOC. 476

The government files this Notice of Errata with respect to its response to Defendants' motion to dismiss due to government interference (Doc. 476). The government corrects the following points:

- The government's response refers to an "Exhibit 6" described as "Correspondence between the Government and Counsel for Larkin." (Doc. 476 at 16, n.4.) That reference was an error and no such exhibit was included.

1 Rather, the Versoza Declaration, referenced as Exhibit 7 in the response, is
2 the actual Exhibit 6.

- 3 - Exhibit 2 does not include all the relevant emails exchanged between the
4 government and Brunst's counsel with respect to the proposed sale of real
5 property. Rather, the attached two emails exchanged on August 23, 2018,
6 between John Kucera and Gary Lincenberg complete the exhibit.
- 7 - Finally, the government wrote in its response, "Upon information and belief,
8 Defendant Brunst still owns the property . . ." (Doc. 476 at 4.) Counsel for
9 Brunst has since informed the government that Defendant Brunst has sold
10 the property.¹

11 Respectfully submitted this 28th day of February, 2019.

12 ELIZABETH A. STRANGE
13 First Assistant United States Attorney
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14 BRIAN BENCZKOWSKI
15 Assistant Attorney General
 Criminal Division, U.S. Department of Justice

16 s/ John J. Kucera

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¹ Before filing its response, the government checked the public record and could
28 not find any evidence of the sale, which informed its "upon information and belief"
 conclusion that no sale had occurred.

CERTIFICATE OF SERVICE

I hereby certify that on this date, February 28, 2019, I transmitted the foregoing under-seal document for filing to the Clerk of the United States District Court and sent a copy via electronic mail to: Paul J. Cambria Jr. Esq. and Erin e. McCampbell, Esq., Lipsitz Green Scime Cambria, LLC, 42 Delaware Ave, Suite 120, Buffalo, NY 14202, **pcambria@lglaw.com** and **emccampbell@lglaw.com**, Thomas H. Bienert, Jr., Esq., Anthony R. Bisconti, Esq., Kenneth M. Miller, Esq., and Whitney Bernstein, Esq., Bienart, Miller & Katzman, PLC, 903 Calle Amanecer, Suite 350, San Clemente, CA 92673, **tbienert@bmkattorneys.com**, **tbisconti@bmkattorneys.com**, **kmiller@bmkattorneys.com**, **wbernstein@bmkattorneys.com**; Mike Piccarreta, Esq., Piccarreta Davis Keenan Fidel, PC, 2 East Congress Street, Suite 1000, Tucson, AZ 85701, **mlp@pd-law.com**; Jim Grant Esq., Davis Wright Termaine, LLP, 1201 Third Avenue, Suite 2200, Seattle, WA 98101, **jimgrant@dwt.com**; Michael D. Kimerer, Esq. and Rhonda Elaine Neff, Esq., 1313 E. Osborn Road, Suite 100, Phoenix, AZ 85014, **MDK@kimerer.com** and **rneff@kimerer.com**; Steve Weiss Esq., Karp & Weiss, PC, 3060 North Swan Rd., Tucson, AZ 85712, **sweiss@karpweiss.com**; Robert Corn-Revere Esq., Davis Wright Termaine, LLP, 1919 Pennsylvania Avenue N.W., Suite 800, Washington, D.C., 20006, **bobcornrevere@dwt.com**; Bruce Feder, Esq., 2930 East Camelback Road, Suite 160, Phoenix, AZ 85016, **bf@federlawpa.com**; Gary Linenberg, Esq., Ariel Neuman, Esq., Gopi K. Panchapakesan, Esq., Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C., 1875 Century Park East, 23rd Floor, Los Angeles, CA 90067, **glincenberg@birdmarella.com**, **aan@birdmarella.com**, **gkp@birdmarella.com**.

s/ Angela Schuetta
 Angela Schuetta
 U.S. Attorney's Office

Exhibit 2

From: Kucera, John (USACAC) <John.Kucera@usdoj.gov>

Sent: Thursday, August 23, 2018 9:47 AM

To: Gary S. Lincenberg <gsl@birdmarella.com>; Ariel A. Neuman <aan@birdmarella.com>

Cc: Gopi K. Panchapakesan <gkp@birdmarella.com>; Rapp, Kevin (USAAZ) <Kevin.Rapp@usdoj.gov>

Subject: RE: Brunst Real Property

Gary,

I'll discuss with my colleagues and get back to you ASAP.

Thanks,
John

John Kucera | AUSA
(213) 894-3391

From: Gary S. Lincenberg <glincenberg@birdmarella.com>
Sent: Thursday, August 23, 2018 9:40 AM
To: Kucera, John (USACAC) <jkucera@usa.doj.gov>; Ariel A. Neuman <aneuman@birdmarella.com>
Cc: Gopi K. Panchapakesan <gpanchapakesan@birdmarella.com>; Rapp, Kevin (USAAZ) <KRapp@usa.doj.gov>
Subject: RE: Brunst Real Property

John,

I am writing to advise that a sales contract was signed yesterday for Mr. Brunst's Del Media property for \$1.925M. I am guessing that net proceeds will be ~\$1.815m.

The only contingency is inspection, which should be done in about 15 days. Closing is set for Oct 22. The buyer is an unknown, arm's length person/trust named Esser Family Trust. Obviously if you contact Esser there is a risk of scaring them off, so please use your discretion in checking them out. Please confirm that you have no objection with our going forward with this sale.

Thank you,

Gary S. Lincenberg | *Principal*
O: 310.201.2100, Ext. 224 | E: glincenberg@birdmarella.com

**Bird, Marella, Boxer, Wolpert, Nessim,
Brooks, Lincenberg & Rhow, P.C.**
1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
BirdMarella.com

From: Gary S. Lincenberg
Sent: Wednesday, August 8, 2018 8:32 PM
To: 'Kucera, John (USACAC)' <John.Kucera@usdoj.gov>; Ariel A. Neuman <aan@birdmarella.com>
Cc: Gopi K. Panchapakesan <gkp@birdmarella.com>; Rapp, Kevin (USAAZ) <Kevin.Rapp@usdoj.gov>
Subject: RE: Brunst Real Property

John,

Your proposal is accepted. Thank you for your professional courtesy in dealing with this issue.

Sincerely,

Gary S. Lincenberg | *Principal*

O: 310.201.2100, Ext. 224 | E: glincenberg@birdmarella.com

**Bird, Marella, Boxer, Wolpert, Nessim,
Drooks, Lincenberg & Rhow, P.C.**

1875 Century Park East, 23rd Floor

Los Angeles, California 90067-2561

BirdMarella.com

From: Kucera, John (USACAC) <John.Kucera@usdoj.gov>

Sent: Wednesday, August 8, 2018 1:25 PM

To: Ariel A. Neuman <aan@birdmarella.com>; Gary S. Lincenberg <gsl@birdmarella.com>

Cc: Gopi K. Panchapakesan <gkp@birdmarella.com>; Rapp, Kevin (USAAZ) <Kevin.Rapp@usdoj.gov>

Subject: Brunst Real Property

Gary and Ariel,

Regarding your client's real property located at 5830 E. Calle Del Media, Phoenix, AZ, the government will agree to recognize the full amount of your recorded lien on condition that the government be allowed to approve the sale of the property (which approval will not be unreasonably withheld) and any proceeds in excess of your recorded loan will then be deposited into a government account to be treated as substitute *res* in the criminal forfeiture proceeding. Please let us know your position.

Thank you,
John

John Kucera | AUSA

(213) 894-3391